

Delhi High Court

Delhi High Court

Nct Of Delhi Thr vs Jagvesh Kumar Sharma & Anr on 7 November, 2013

* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 07.11.2013

+ WP(C) No.7837 of 2009 CM No.4134 of 2009 (Stay) NCT OF DELHI THR.

DEPUTY SECRETARY (HOME)Petitioner Through: Mr. Anjum Javed, Adv. with

Ms. Indu Sinha, Deputy Secretary (HQ),

Mr. Rakesh, Gr.-II & Mr. Anil, Gr.-III

in person.

Versus

JAGVESH KUMAR SHARMA & ANR.Respondents Through: Mr. Archit Upadhayay, Adv. With

Respondent No.1 in person.

+ WP(C) No.9385 of 2009 CM No.7208 of 2009 (Stay) NCT OF DELHI THR.

DEPUTY SECRETARY (HOME)Petitioner Through: Mr. Anjum Javed, Adv. with

Ms. Indu Sinha, Deputy Secretary (HQ),

Mr. Rakesh, Gr.-II & Mr. Anil, Gr.-III

in person.

Versus

JAGVESH KUMAR SHARMA & ANR.Respondents Through: Mr. Archit Upadhayay, Adv. With

Respondent No.1 in person.

+ WP(C) No.8267 of 2009 CM No.5080 of 2009 (Stay) NCT OF DELHI THR.

DEPUTY SECRETARY (HOME)Petitioner Through: Mr. Anjum Javed, Adv. with

W.P.(C) No.7837 of 2009 & connected matters Page 1 of 8 Ms. Indu Sinha, Deputy Secretary (HQ),

Mr. Rakesh, Gr.-II & Mr. Anil, Gr.-III

in person.

Versus

JAGVESH KUMAR SHARMA & ANR.Respondents Through: Mr. Archit Upadhayay, Adv. With

Respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE V.K.JAIN

JUDGEMENT

V.K.JAIN, J. (Oral)

In WP (C) No.7837/2009, the respondent No.1, Mr. Jagvesh Kumar Sharma, vide application dated 31.12.2007 sought the following information from the CPIO of the Government of NCT of Delhi, Home (General) Department:

"1. How many armed licenses validated to all India basis by the Delhi Home Department between 4th July, 1989 to 11th October, 1995?

2. How many recommendations Home Department of Delhi Government has sent to Home Ministry, Government of India for validation of armed license to all India basis between 4 th July, 1989 to 11th October, 1995?

3. How many licenses did the Home Ministry validated to all India basis after recommendation of Home Department, Delhi Government?

4. Furnish photocopy of rules and regulations on the basis of which all India validation was done between 4th July, 1989 to 11th October, 1995?"

W.P.(C) No.7837 of 2009 & connected matters Page 2 of 8

2. The information at serial Nos.1 to 3 was denied to the respondent on the ground that no such record was managed by the Department after verification/investigation forms are sent to the concerned Deputy Commissioner for action. As regards information sought for at serial No.4 is concerned, the respondent No.1 was informed that photocopies of the rules/regulations had already been sent to him on 8.1.2008. Dissatisfied with the aforesaid reply, the respondents preferred an appeal which came to be dismissed by the first appellate authority vide order dated 10.3.2008. Being still aggrieved, the respondent preferred a second appeal before the Central Information Commission. When the matter came up for hearing before the Commission, the CPIO was directed to obtain the figure pertaining to information at serial No.1 from the DCP (Licensing) and provide it to the respondents. Regarding query Nos.2 & 3 since the CPIO stated that they were not maintaining account of the recommendations, the CPIO was directed to give inspection of the files so that the respondent could count the numbers himself. The PIO was also directed to provide copies of the rules and regulations to the respondent.

3. In WP (C) No.9385/2009, the respondent before this Court had sought the following information:

"1. Number of Arms Licences with all India validity and category.

2. Number of outside arms license registered in Delhi with all India validity and category.

3. Policy being followed for extending validity of arms license to neighbouring states.

W.P.(C) No.7837 of 2009 & connected matters Page 3 of 8

4. Date and time be given for inspection of files relating to the application whose area validity has been extended from Delhi to all India w.e.f. 5.8.1989 to 30.4.2007.
5. Date and time be given for inspection of files relating to the applicants whose area validity has been extended from Delhi to neighbouring States w.e.f. 5.8.89 to 30.4.2007."

The information at serial Nos.1 & 2 was provided to the respondent. As regards information at serial No.3, the respondent was asked to visit the office on any working days for collecting the photocopies of the policy/guidelines. The information at serial Nos.4 & 5, however, were declined on the ground that it was disclosure under Section 8 (1) (j) of the RTI Act. The first appeal filed by the respondent having been dismissed, he filed a second appeal. The Commission, vide impugned order dated 11.5.2009, directed inspection of files relating to arms licences.

4. In WP (C) No.8267/2009, the respondent No.1 vide application dated 31.12.2007 sought the following information:

- "1. How many forms for validation of armed licenses received between 1st January, 2000 to 31st December, 2007? Furnish copy of rules and regulations.
2. Furnish number of armed licenses validated for all India basis between 1st January 2000 to 31st December, 2007 after repeated applications? Kindly give copy of such rules.
3. Furnish number of armed licenses applied for validation from other states between 1st January, 2000 to 31st December, 2007.
4. Furnish number of armed licenses cancelled to validated from other states and have repeated applications."

W.P.(C) No.7837 of 2009 & connected matters Page 4 of 8

5. The information, however, was declined on the ground that no such record was managed by the Department after verification/investigation forms are sent to the concerned department. Being aggrieved from denial of the information the respondent filed an appeal before the first appellate authority which came to be dismissed vide order dated 22.8.2007. Being still aggrieved, he approached the Commission which, allowed the appeal and directed the petitioner to supply the list of persons who applied for Arms License from 1.1.2000 to 31.12.2007.

6. The petitioner has no grievance with respect to the directions to provide copies of rules and regulations but states that as far as other information is concerned, as per the practice prevalent at the relevant time, the applications for grant of arms licence valid throughout the country used to be received by the concerned Deputy Commissioner of Police who used to forward such applications to the Home Department along with a note. On receipt of the applications and the note with supporting documents, the Home Department used to process the matter and after obtaining orders of the Lieutenant Governor the documents used to be returned to the concerned DCP after retaining with the Home Department, only the forwarding letter received from the DCP (Licensing) office notings of the Home Department and the order of the Lieutenant Governor. The learned counsel for the petitioner states that they have been able to obtain the requisite information as to in how many cases the Lieutenant Governor has approved the issue of arm license valid throughout the country from 4.7.1989 to 11.10.1995 and the said information would be provided to the respondents within twelve

W.P.(C) No.7837 of 2009 & connected matters Page 5 of 8 weeks without disclosing the name and particulars of the persons to whom the license was granted. This is acceptable to the respondent.

7. The learned counsel for the petitioner also states, on instructions, that w.e.f. 28.3.1990, Government of NCT of Delhi was not making recommendations to the Central Government but was itself processing the applications for grant of licence valid on All India basis and was obtaining orders of the Lieutenant Governor on such applications.

8. The learned counsel for the petitioner also states that they will also inform the respondents within twelve (12) weeks as to how many recommendations were made by the Home Department of Government of NCT of Delhi to the Central Government between 4.7.1989 to 11.10.1995 for grant of arm licence valid on All India basis, after obtaining the desired information from the DCP (Licensing).

9. Files in which applications for grant of Arms Licenses were processed would certainly contain personal information of the applicants since no Arms License can be granted without obtaining personal information of the applicant. The disclosure of personal information which has no relationship to any public activity of the person to whom the information pertains. Hence, such information is exempt from disclosure under Section 8 (1) (j) of the Act of the RTI Act, particularly when no element of public interest is involved in disclosure of such information. Therefore, the direction of the Commission for inspection of the files relating to applications for Arms License cannot be sustained and is liable to be set aside. The petitioner is directed to give a category-wise break-up of the number of Arms Licenses valid on All India basis which were issued between 4.7.1989 to 31.12.2007, after

W.P.(C) No.7837 of 2009 & connected matters Page 6 of 8 obtaining the same from the concerned DCP, within twelve (12) weeks from today.

10. A careful perusal of the application whereby information was sought by the respondent would show that he did not at all seek the names of the persons who had applied for Arms Licences between 1.1.2000 and 31.12.2007. He only sought the total number of forms received for grant of such licenses between 1.1.2000 and 31.12.2007. He also sought the number of Arms Licenses issued during the aforesaid period after repeat applications. The respondent had also sought information as regards the number of licenses where the first application for extending the validity of the licenses to other States was rejected but on subsequent applications, the request was granted by the Government of NCT of Delhi.

Since the respondent never sought the names of the persons who had submitted such applications, the Commission was not justified in directing the petitioner to give list of the persons who had applied for Arms License from 1.1.2000 to 31.12.2007.

11. The writ petitions are, therefore, disposed of with the direction, to the petitioner, to supply to the respondent, within twelve (12) weeks, the following information:

i. The total number of applications received from 1.1.2000 to 31.12.2007 for grant of Arms Licence valid on All India basis. ii. The number of Arms Licenses approved between 1.1.2000 and 31.12.2007 where initially the application for grant of Arms License on All India basis or for extension of license to All India basis was rejected but later such a request was granted by the Government of NCT of Delhi.

W.P.(C) No.7837 of 2009 & connected matters Page 7 of 8 iii. The number of licenses granted by the Government of NCT of Delhi valid for a State other than Delhi between 1.1.2000 to 31.12.2007.

iv. The rules relating to grant of Arms License valid outside Delhi is applicable from time to time from 1989 to 2007. (v) The number of cases in which the Lt. Governor approved the issue of arms licenses valid throughout the country, between 4.7.1989 to 11.10.1995. The names and particulars of the persons to whom the licenses were granted, however, need not be disclosed.

(vi) The number of cases in which the recommendations were made by the Govt of NCT of Delhi to the Central Govt. between 4.7.1981 to 11.10.1995 for grant of arms licenses valid all India basis.

(vii) Category-wise break-up of the number of arms licenses valid on all India basis, issued between 4.7.1989 to 31.12.2007, without disclosing the names of the persons to whom such licenses were issued.

Wherever required, the information shall be obtained by the petitioner from DCP (Licensing) and supplied to the respondent. The orders passed by the Commission shall stand satisfied on furnishing of the information in terms of this order.

There shall be no orders as to costs.

NOVEMBER 07, 2013 V.K. JAIN, J. b'nesh

W.P.(C) No.7837 of 2009 & connected matters Page 8 of 8